

10/522,958
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Remarks

Currently Claims 1-21, 23, 25-30, 43-44 and 46 are pending. Claims 22, 24, and 31-32 are cancelled without prejudice, to reduce the number of claims for examination. Claims 1, 20, 21, and 43 are amended. The subject matter of claim 22 has been incorporated into amended claim 21. Other amendments are discussed below in connection with the restriction requirement. Entry of the foregoing amendments is respectfully requested.

Restriction Requirement and Claim Amendments

Applicants thank the Examiner for taking the time to review and clarify the restriction requirement mailed 6 August 2007. As discussed during that teleconference, Applicants propose the following new restriction.

Group I: claims 1-23, 43, 44, and 46 drawn to compounds of formula (I) wherein Q^2 is defined as a group of formula: $-(R^2)_{aa}-(Y^2)_{bb}-(R^2)_{cc}-R^4$, i.e., two adjacent Q^2 groups together with the carbon atoms to which they are bound, do not form a further ring fused to the benzimidazole.

Group II: claims 1-23, 43, 44, and 46 drawn to compounds of formula (I) wherein two adjacent Q^2 groups together with the carbon atoms to which they are bound, do form a further ring fused to the benzimidazole.

Group III: claims 25-29 drawn to a method of using compounds of Group I.

Group IV: claims 25-29 drawn to a method of using compounds of Group II.

Group V: claim 30 drawn to a process for preparing compounds of Group I.

Group VI: claim 30 drawn to a process for preparing compounds of Group II.

Applicants respectfully submit that the foregoing groupings are appropriate under 37 C.F.R. 1.499 and understand the Examiner to have agreed to this proposed claim grouping for restriction purposes.

Accordingly, Applicants hereby elect the claims of newly proposed Group I, claims 1-23, 43, 44, and 46 drawn to compounds of formula (I) wherein Q^2 is defined as a group of formula: $-(R^2)_{aa}-(Y^2)_{bb}-(R^2)_{cc}-R^4$. To expediate examination, Applicants have cancelled the non-elected subject matter from claims 1 and 43. Claims 1 and 43 have been further amended to change "Het" to tetrazole. Support for this amendment may be found throughout the specification and examples and particularly at page 15, lines 13-16 and example 147. Claims 1 and 43 are further amended to

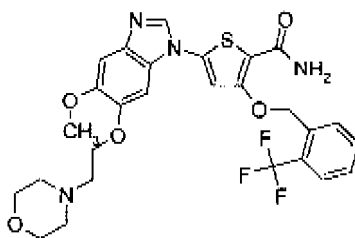
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recite pharmaceutically acceptable salts. No new matter is added. Applicants expressly reserve the right to file one or more divisional and/or continuation applications as appropriate, directed toward the non-elected subject matter and subject matter cancelled from the claims.

Applicants have not cancelled claims 25-30 corresponding to newly proposed groups III and V. Applicants respectfully request that the Groups III and V be re-joined with Group I pursuant to 37 C.F.R. 1.141, upon finding a generic claim to be allowable.

This election is made without traverse to the extent that the Examiner affirms the newly proposed claim grouping and the re-joinder of claims upon finding a generic claim allowable.

Responsive to the requirement of an election of a single species, Applicants hereby elect the species of Example 137: 5-(5-(Methoxy)-6-([2-(4-morpholinyl)ethyl]oxy)-1*H*-benzimidazol-1-yl)-3-([2-(trifluoromethyl)phenyl]methyl)oxy)-2-thiophenecarboxamide



Claims 1-21, 23, 25-30 and 43 are generic to this species. This species is not within claims 44 and 46. The election of a single disclosed species is made to facilitate the Examiner's search. The election is made without traverse on the understanding that examination of the full scope of the claim will proceed upon finding the elected species allowable.

Notice Regarding Co-Pending Applications

Applicants respectfully direct the Examiner's attention to the following co-pending patent applications, all of which are commonly owned with the instant case.

U.S. Serial No.	Filing Date
10/522958	31-Jan-05
10/575210	10-Apr-06

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11/467577	28-Aug-06
11/754653	29-May-07

Applicants further wish to bring to the Examiner's attention, U.S. Serial No. 10/597828 filed 7-Feb-05, which is assigned to Glaxo Group Limited.

Applicants respectfully submit that the instant application is in condition for substantive examination, which action is respectfully requested. The Examiner is invited to contact the undersigned at (919) 483-8222, to discuss this case, if desired.

Respectfully submitted,



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